

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

MARICEL FORTEZA

v.

AUTO SERVICE DEPARTMENT, *et*  
*al.*

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NO. 4:23-CV-00401-ALM-BD

ORDER

Plaintiff Maricel Forteza sued U.S. Dealer Services, Inc. d/b/a U.S. Auto and others. Dkt. 1. Forteza settled her claims with the other defendants, so only U.S. Auto remains. *See* Dkts. 50, 52.

Forteza filed a process server's affidavit showing that U.S. Auto was served in January 2024. Dkt. 43. U.S. Auto has not answered or otherwise appeared. To date, Forteza has not requested a clerk's entry of default or moved for default judgment against U.S. Auto. *See* Fed. R. Civ. P. 55.

Failure to move for a default judgment against a defendant who has not appeared may result in dismissal for failure to prosecute. *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1190 (5th Cir. 1992). The court also has the inherent power to dismiss a complaint sua sponte for want of prosecution or failure to follow its orders. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–32 (1962); *see also* Fed. R. Civ. P. 41(b).

It is **ORDERED** that, within 30 days of this order, Forteza either request a default against U.S. Auto and move for default judgment against it or file a notice informing the court of how she intends to pursue her suit. If she fails to do so, the court will recommend that all claims be dismissed without prejudice. If dismissal is satisfactory to Forteza, no further action is necessary.

So **ORDERED** and **SIGNED** this 3rd day of April, 2025.



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Bill Davis  
United States Magistrate Judge